



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
)
HAROLD AND CATHERINE M. WILLIAMS)

For Appellants: Leland E. Olwell
Certified Public Accountant

For Respondent: John R. Akin
Counsel

O P I N I O N

This appeal is made pursuant to section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Harold and Catherine M. Williams against a proposed assessment of additional personal income tax in the amount of \$315.69 for the year 1977.

Appeal of Harold and Catherine M. Williams

The sole issue presented for our determination by this appeal is whether respondent properly disallowed appellants' claimed solar energy tax credit for the year in issue.

In 1977, appellants installed weatherstripping and insulation on their residence. These items were not installed in conjunction with a "solar energy system" (as that term was defined for the year in issue in former Revenue and Taxation Code section 17052.5, subdivision (g)¹.) On their joint California personal income tax return for 1977, appellants claimed a solar energy tax credit in the amount of \$316.00 (55 percent of the cost of the weatherstripping and insulation). Upon examination of their return, respondent determined that appellants' purchase and installation of those items did not entitle them to a solar energy tax credit.

Revenue and Taxation Code section 17052.5 provides for a tax credit equal to 55 percent of the cost of certain solar energy devices installed on premises located in California which are owned and controlled by the taxpayer claiming the credit, up to a maximum credit of \$3,000. The same section also provides that the Energy Resources Conservation and Development Commission (hereinafter referred to as the "Energy Commission") is responsible for establishing guidelines and criteria for solar energy systems which are eligible for the solar energy tax credit. Pursuant to subdivision (a)(5) of section 17052.5, energy conservation measures applied in conjunction with solar energy systems to reduce the total cost in back-up energy requirements of such systems are also eligible for the tax credit. The Energy Commission is empowered to define those energy conservation measures which are eligible for the tax credit when applied in conjunction with solar energy systems. (Rev. & Tax. Code, § 17052.5, subd. (a)(5).)

After reviewing the record on appeal, we must conclude that respondent properly disallowed appellants' claimed solar energy tax credit. Notwithstanding the energy conservation characteristics of insulation and

¹/ AB 3623 (Stats. 1978, Ch. 1159), operative for taxable years beginning in 1978, amended the definition of the term "solar energy system," and rewrote subdivision (g) of section 17052.5 as subdivision (i)(6)(a).

Appeal of Harold and Catherine M. Williams

weatherstripping, appellants' conservation devices simply did not satisfy the statutory requirements for eligibility **for** the solar energy tax credit. The statutory requirements are specific in this regard: the solar energy tax credit is available only for solar energy systems or for conservation measures installed in conjunction with a solar energy system. Energy Commission regulations in effect for the year in issue clearly provided that insulation and weatherstripping were not, by themselves, eligible for the tax credit and would qualify for the credit only when installed in conjunction with a solar space conditioning system. (Former Cal. Admin. Code, tit. 20, reg. 2605, subd. (b) and (c)(1), see also Cal. Admin. Code, tit. 20, reg. 2604, subd. (e).) Since they were not installed in conjunction with such a system, appellants' insulation and weatherstripping simply did not satisfy the statutory eligibility requirements for the solar energy tax credit.

O R D E R

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of Harold and Catherine M. Williams against a proposed assessment of additional personal income tax in the amount of \$315.69 for the year 1977, be and the same is hereby sustained.

William M. Bennett, Chairman

Ernest J. Dronenburg, Jr. , Member

Richard Nevins, Member

_____, Member

_____, Member